



State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION
OFFICE OF THE DEPUTY COMMISSIONER

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BOB MARTIN
Commissioner

February 4, 2014

Kate Anderson, Chief
Clean Water Regulatory Branch,
USEPA Region 2 Clean Water Division
290 Broadway, 24th floor
NY, NY 10007-1866

Dear Ms. Anderson:

This is in response to your December 18, 2013 email communication regarding the September 2013 New Jersey Nutrient Criteria Enhancement Plan. Your communication acknowledged the significant efforts in which the Department of Environmental Protection is engaged, to enhance our understanding of the levels of nutrients that can affect the ability of our waters to support their designated uses, and to develop numeric translators of narrative nutrient criteria and/or numeric nutrient criteria that align with full use support. However, your communication limits EPA's approval of New Jersey's Nutrient Criteria Enhancement Plan to a "partially mutually-agreed upon" plan. The basis for the designation is EPA's position that the plan does not include specific milestones for criteria adoption and submission to EPA, which is identified as a key component of a state nutrient criteria plan.

New Jersey's plan contains a list of very specific actions by water body type, along with dates for commencement and projected completion for most of the actions identified. These commitments clearly advance the objectives of the plan. Uncertainties in study results which will affect next steps for these activities make time bound final actions inappropriate at this time. Providing specific milestones for developing numeric translators or criteria in December 2016, when the plan will be updated, would be more appropriate.

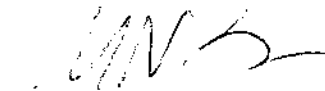
EPA staff recommended Department review of the New York State Nutrient Standards Plan (July 7, 2011), as an example of satisfactory milestones that would result in a "mutually agreed upon" plan. The Department review revealed that the New York plan contains broad ranges of dates for projected outcomes, without the result of numeric criteria in all cases, and with strong caveats regarding the intent to actually adopt and/or implement criteria. New Jersey's plan is more specific and comparably time bounded. Further, as you know, New Jersey has been a national leader with regard to nutrient criteria, having had numeric criteria in place for phosphorus for decades and has implemented these through TMDLs and NJPDES permits. I

believe this record along with the clear path set forth in the September 2013 Nutrient Criteria Enhancement Plan warrant EPA's approval as a "mutually agreed upon plan" and I request that you reconsider your determination.

In addition, your communication suggested that vacancies at the position of Director and Assistant Commissioner are the reason for lack of date specific milestones for all actions in the plan. While I have assumed the position of Acting Deputy Commissioner, I can assure you there is no void in the oversight of our water programs. I continue to provide leadership and guidance to the Water Resource Management programs, functioning in the dual role as Assistant Commissioner. While we currently lack a Director of the Division of Water Monitoring and Standards, the management team in the Division has assumed the necessary functions in the interim.

I look forward to continuing our dialogue to obtain a "mutually agreed upon plan" status. If you have any questions, please feel free to contact me or Barbara Hirst of my staff of Water Monitoring and Standards at (609)292-0427.

Sincerely,

A handwritten signature in black ink, appearing to read "M. N. Sickerka", with a stylized flourish at the end.

Michele N. Sickerka, Esq.
Acting Deputy Commissioner

C: Barbara Hirst, WMS